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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA**

LIVED IN IMAGES, INC., a California
corporation,

Plaintiff,

vs.

SUPERIOR REPLACEMENT
WINDOWS, LLC, an Arizona limited
liability company, JOHN DOES I-X;
JANE DOES I-X; ABC PARTNERSHIPS I-
X; DEF LIMITED LIABILITY
COMPANIES I-X; and XYZ
CORPORATIONS I-X,

Defendants.

Case No.

**COMPLAINT FOR
COPYRIGHT
INFRINGEMENT**

DEMAND FOR JURY TRIAL

I. COMPLAINT

LIVED IN IMAGES, INC. (“Lived In Images” or “Plaintiff”) hereby
alleges for its complaint against SUPERIOR REPLACEMENT WINDOWS, LLC
 (“Superior Replacement” or “Defendant”) upon personal information as to
Plaintiff’s own activities, and upon information and belief as to the activities of
others, as follows:

II. JURISDICTION AND VENUE

1
2 1. This Court has exclusive subject matter jurisdiction over this action
3 pursuant to 28 U.S.C. §§ 1331 and 1338(a) because this is a claim for copyright
4 infringement arising under the Copyright Act of the United States, 17 U.S.C. §
5 101, et seq.
6

7
8 2. This Court has personal jurisdiction over Superior Replacement
9 because it is an Arizona limited liability company residing in Maricopa County.
10

11 3. Venue is appropriate under 28 U.S.C. § 1391(b) because Superior
12 Replacement resides in this judicial district and a substantial part of the events or
13 omissions giving rise to this claim occurred in this judicial district.
14

III. PARTIES

15
16 4. Plaintiff is a California corporation with its principal business
17 address at 1401 North El Camino Real, Suite 203, San Clemente, California
18 92672.
19

20 5. Superior Replacement is an Arizona limited liability company with
21 its principal business address at 7693 East Journey Lane, Scottsdale, Arizona
22 85255.
23

24
25 6. Plaintiff does not know the true names of defendants named in this
26 complaint as Does 1 through 5 and therefore sues those defendants by such
27 fictitious names. Plaintiff will amend the complaint to include the true names of
28

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1 the Doe Defendants and allege facts supporting their liability when Plaintiff learns
2 them through discovery. Plaintiff is informed and believes, and on that basis
3 alleges, that each of the fictitiously named defendants is responsible in some
4 manner for the acts and omissions that give rise to Plaintiff's injuries, and that the
5 Doe Defendants proximately caused Plaintiff's injuries.
6

8 **IV. FACTS**

9 **A. Lived In Images created copyrightable photographs and** 10 **registered them with the U.S. Copyright Office.**

11
12 7. Lived In Images is a leading stock photo archive specializing in
13 home, garden, and interior design pictures.

14
15 8. With one of the largest home design databases, Lived In Images
16 offers both royalty free and rights managed licensing for use of its photographs.
17 The photographs are licensed commercially and editorially, and either
18 individually or as a group with accompanying text.
19

20 9. Lived In Images registered a group of 5,500 architectural
21 photographs with the U.S. Copyright Office and was issued Copyright
22 Registration No. VA 1- 431-181 (November 13, 2009) (hereafter "Group
23 Registration"). A copy of the registration is provided as Exhibit A.
24
25

26 ///

27 ///

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1 **B. Superior Replacement published and displayed a copy of Lived**
2 **In Images' copyrighted photographs without license or**
3 **permission.**

4 10. Superior Replacement is a window repair and replacement business.
5 To promote its business, Superior Replacement maintains a website located
6 <www.replacementwindowssurprise.com>.
7

8 11. On or around April 2014, Lived In Images discovered Superior
9 Replacement was displaying a copy of its copyrighted images without license or
10 permission on its website. Attached as Exhibit B is a screenshot of Superior
11 Replacement's infringing use.
12

13 12. Shortly thereafter, Lived In Images sent Superior Replacement a
14 notice by email informing it of the infringing use. Superior Replacement failed to
15 respond.
16
17

18 **V. CAUSE OF ACTION**
19 **COPYRIGHT INFRINGEMENT**

20 13. Lived In Images hereby incorporates Paragraphs 1-12 by reference.
21

22 14. Lived In Images is, and at all relevant times has been, the owner of
23 the copyright of the Group Registration, composed of approximately 5,500
24 architectural photographs.
25

26 15. Each photograph in the Group Registration is copyrightable subject
27 matter under 17 U.S.C. § 102(a)(5).
28

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1 16. Lived In Images has complied in all respects with the provisions of
2 the Copyright Act and all regulations thereunder.

3 17. Lived In Images registered the copyright in each photograph in the
4 Group Registration with the United State Copyright Office before Superior
5 Replacement began infringement.
6

7 18. Lived In Images has the exclusive rights under 17 U.S.C. § 106 to (1)
8 reproduce the copyrighted photographs, (2) prepare derivative works based of the
9 copyrighted photographs, (3) distribute copies of the copyrighted photographs,
10 and (4) display the copyrighted photographs publicly.
11

12 19. Without the authorization or consent of Lived In Images,
13 photographs from the Group Registration were reproduced, derivative works were
14 made from, copies were distributed of, and the photographs were displayed on
15 Superior Replacement's website.
16
17

18 20. Lived In Images' exclusive rights in the photographs in the Group
19 Registration were violated.
20
21

22 21. Superior Replacement induced, caused, or materially contributed to
23 the infringement.
24

25 22. Superior Replacement had actual knowledge of its infringement.

26 23. Superior Replacement acted willfully.
27
28

VI. RELIEF REQUESTED

WHEREFORE, Lived In Images asks this Court to enter judgment against Superior Replacement and its subsidiaries, affiliates, agents, employees, Does 1 - 5, and all persons acting in concert or participation with them, granting the following relief:

- A. Temporary and permanent injunctions preventing and restraining infringement of the Group Registration, Registration No. VA 1-431-181(November 13, 2009) by Superior Replacement under 17 U.S.C. § 502;
- B. An order requiring the destruction of all copies made by or under the control of Superior Replacement of the photographs in the Group Registration and all articles by which such copies may be reproduced under 17 U.S.C. § 503;
- C. An award of the actual damages suffered by Lived In Images as the result of Superior Replacement's infringement, plus any profits attributable to Superior Replacement's infringement under 17 U.S.C. § 504(b);
- D. Alternatively, if Lived In Images so elects, an award of statutory damages for each infringement of the Group Registration under 17 U.S.C. § 504;

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- 1 E. A judgment that Superior Replacement's infringement was willful
2 and an increased statutory damage award under 17 U.S.C. §
3 504(c)(2);
4
5 F. An award of Plaintiff's full costs, including reasonable attorney's
6 fees, under 17 U.S.C. § 505; and
7
8 G. For such other and further relief as may be just and proper under the
9 circumstances.
10

11 RESPECTFULLY submitted this 27th day of March, 2015.
12

13 **KELLY/WARNER, PLLC**

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18 Attorneys for Plaintiff
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